

## **58.6 Other Requirements**

# 58.6 Other Requirements

- 58.6 Compliance Checklist is required for All HUD-Assisted Projects
- Does NOT trigger Certification and Release of Funds procedures
- Includes:
  - **58.6 (a) and (b)** – Flood Disaster Protection
  - **58.6 (c)** Coastal Barrier Resources Protection
  - **58.6 (d)** Buyer Notification Requirements for Runway Clear Zones and Clear Zones of 24 CFR Part 51.303(a)(3)

# **FLOOD DISASTER PROTECTION**

**58.6(a)**



# Risk of Being without Flood Insurance

- Flooding is NOT covered by homeowners insurance and is not generally available through private sector insurance companies.
- Properties located *outside* the 100-year floodplain account for about 1/3 of all claims in the National Flood Insurance Program.
- Even where not required by law, purchase of flood insurance is *always prudent* if flood hazards may be present.



# Legal and Regulatory Basis for Flood Insurance Requirements

- Enacted in 1968, and amended by:
  - Flood Disaster Protection Act of 1973
  - National Flood Insurance Reform legislation of 1994
- National Flood Insurance Program requirements can be found at Section 44 of the Code of Federal Regulations, Parts 59-77. In particular 44 CFR 60.3.



# Flood Insurance Requirements of the Flood Disaster Protection Act of 1973, as amended, Section 3(a)(4)

- Prohibits federal action in Special Flood Hazard Areas (100-year floodplain) without flood insurance.
- Insurance is required for building (not land) and machinery, equipment, fixtures, and furnishings contained within the building.



# New Construction of Buildings in a Floodplain Allowed ONLY IF

- Structure is elevated to “base flood elevation” or above (i.e., elevation of 100 yr floodplain), or higher if the local FPM ordinance is stricter
- No Basement in Building



# **Flood Insurance Requirements Do Not Apply to:**

**[Section 3(a)(3)]**

- Formula grants administered by States
- Small loans of less than \$5,000 with a repayment period of less than one-year
- Assisted leasing that does not involve repairs, improvements and acquisition
- Improvements or repairs costing below the NFIP deductible (currently \$500)
- Maintenance activities



# Maintenance vs. Repair

- Routine maintenance keeps a building in good operating condition, does not add value and includes painting, fixing gutters, floors, mending leaks or plastering, replacing thermostats, window panes or door locks.
- Routine maintenance falls below the threshold for building “repair or improvement”— [Sec.3(a)(4) of Flood Disaster Protection Act (FDPA)].
- Although not required, flood insurance is recommended for assistance that involves routine maintenance.
- Flood insurance *is required* for assistance that involves repairs, including:
  - new plumbing,
  - electrical wiring or AC system
  - new roof
  - any comprehensive remodeling.

# National Flood Insurance Program (NFIP)

- National Flood Insurance Program makes flood insurance underwritten by the Federal government available for sale to individual property owners, but only within participating communities
- FEMA list of communities participating in NFIP is the “Community Status Book” – [www.fema.gov/fema/csb.shtm](http://www.fema.gov/fema/csb.shtm)

# NFIP Overview

- NFIP is a voluntary program, based on mutual agreement between the Federal government and the local community.
- In exchange for adopting and enforcing a Floodplain Management (FPM) ordinance, Federally backed flood insurance is made available to property owners throughout the community.



*Lubbock, TX*

# **HUD's Flood Insurance Requirements of 24 CFR 58.6(a)**

- HUD assistance may not be used for acquisition, construction, or rehabilitation in a FEMA designated special flood hazard area (100 year floodplain) unless:
  - The community where the project is located is participating in the National Flood Insurance Program; and,
  - Flood insurance protection is obtained as a condition of approval of HUD-assistance.
- RE's are responsible for ensuring flood insurance is obtained and maintained.

# HUD Disaster Assistance

- Section 582 of the National Flood Insurance Reform Act of 1994 prohibits HUD disaster assistance in a special flood hazard area for payments for repair, replacement or restoration for flood damage to residential or commercial property if:
  - The person previously received disaster assistance and did not maintain required flood insurance

# Flood Insurance Coverage Requirements

- Property owner must purchase and maintain flood insurance protection.
- Must cover building and improvements up to the NFIP Maximum
- If HUD assistance is a GRANT, must maintain coverage through the life of the building
- If HUD assistance is a LOAN, must maintain flood insurance throughout the term of the loan



# Documentation Resources

- Reference Flood Mapping Sources:
  - FEMA Maps (FIRM, FHBM maps)
    - <http://www.store.msc.fema.gov>
- Other Agency Sources
  - U.S. Army Corps of Engineers (USACE)
  - USDA/Natural Resource Conservation District
  - State & local agencies overseeing flood control
- Special Flood Determination
  - FEMA Form 81 “Special Flood Hazard Determination”  
<http://www.fema.gov/library/viewRecord.do?id=1394>
- Copy of Flood Insurance Policy (if project is located within a flood hazard area)

# Documentation for the ERR

- ✓ Project location must be identified on a FEMA flood map showing floodplain designation
- ✓ If area is unmapped, must use include best available information
- ✓ If FEMA Form 81, “Special Flood Hazard Determination” is used must be included



# Example Checklist

- ✓ Appropriate boxes checked.
- ✓ FEMA FIRM Panel No. and date referenced.
- ✓ Zones listed

Project name: Round 2.2 Generator Project

ERR FILE # DRS

**1. §58.6(a) and (b) Flood Disaster Protection Act of 1973, as amended; National Flood Insurance Reform Act of 1994**

- a. Does the project involve new construction, major rehabilitation, minor rehabilitation, improvements, acquisition, management, new loans, loan refinancing or mortgage insurance?  
☒ Yes ☐ No  
If No, compliance with this section is complete.  
If Yes, continue.
- b. Is the project located in a FEMA identified Special Flood Hazard Area?  
☒ Yes ☐ No  
If No, compliance with this section is complete.  
If Yes, continue.
- c. Is the community participating in the National Flood Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?  
☒ Yes ☐ No  
If Yes, Flood Insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.  
If No, Federal assistance may not be used in the Special Flood Hazards Area.

Cite and attach source documentation: (Documentation should include a FEMA Flood Map showing project location in reference to flood zone designation. If flood map is not available, use best available information.)

For additional information see:

FEMA Map Service Center: <http://www.store.msc.fema.gov>

NFIP Community Status Book: [www.fema.gov/fema/csb.shtml](http://www.fema.gov/fema/csb.shtml)

According to FEMA FIRM Community Panel No. 48039C0175I, effective September 22, 1999, Lift Station #33 is located in Zone A0, 100 year-floodplain. Lift Stations #23 and #30 are located in Zone X, between the 100 year-floodplain and 500 year-floodplain, according to FEMA FIRM Community Panel No. 4803C0165H, effective June 5, 1989. According to Brazoria County FEMA building regulations, the generator pad should be installed one foot above natural ground.

(Source: FEMA - Map Service Center: Flood Insurance Rate Maps: <http://www.msc.fema.gov>)

**2. §58.6(c) Coastal Barrier Improvement Act, as amended by the Coastal Barriers Improvement Act of 1990 (16 U.S.C. 3501)**

- a. Does the project involve new construction, conversion of land uses, major

# **COASTAL BARRIER RESOURCE AREAS    58.6 (C)**

# What are Coastal Barrier Resource Areas?

- A succession of long, narrow islands, spits, and bay barriers generally located parallel to the mainland coast.
- Areas within the Coastal Barrier Resources System are mapped and described as CBRS 'Units'

*Bolivar Peninsula  
Galveston Island*



# **Coastal Barrier Resources Act (CBRA) of 1982**

- In the 1970s and 1980s, Congress recognized that certain actions and programs of the Federal Government have historically subsidized and encouraged development on coastal barriers, resulting in the loss of natural resources; threats to human life, health, and property; and the expenditure of millions of tax dollars each year.
- Legislation passed to remove the Federal incentive to develop these areas
- Designated relatively undeveloped coastal barriers along the Atlantic and Gulf coasts as part of the John H. Chafee Coastal Barrier Resources System (CBRS), and made these areas ineligible for most new Federal expenditures and financial assistance.

[<http://www.fws.gov/CBRA/Act/index.html>]

# **The Coastal Barrier Improvement Act (CBIA) of 1990**

- Reauthorized the CBRA
- Expanded the CBRS to include undeveloped coastal barriers along the Florida Keys, Great Lakes, Puerto Rico, and U.S. Virgin Islands;
- Added a new category of coastal barriers to the CBRS called "otherwise protected areas" (OPAs) which are held primarily as wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.
- The law encourages the conservation of hurricane prone, biologically rich coastal barriers by restricting Federal expenditures that encourage development
- Areas within the CBRS can be developed provided that private developers or other non-Federal parties bear the full cost. Between 1982 and 2010, CBRA has saved over \$1 billion in Federal dollars and will save millions more in the future.
- Source: <http://www.fws.gov/CBRA/Act/index.html>

# CBRA Restrictions and Prohibitions

- The Act *restricts federal financial assistance* within the John H. Chafee Coastal Barrier Resources System (CBRS).
- Prohibits federal flood insurance coverage for new properties within the CBRS
- Prohibits renewal of federal flood insurance policies if an existing insured structure is damaged during a flood event

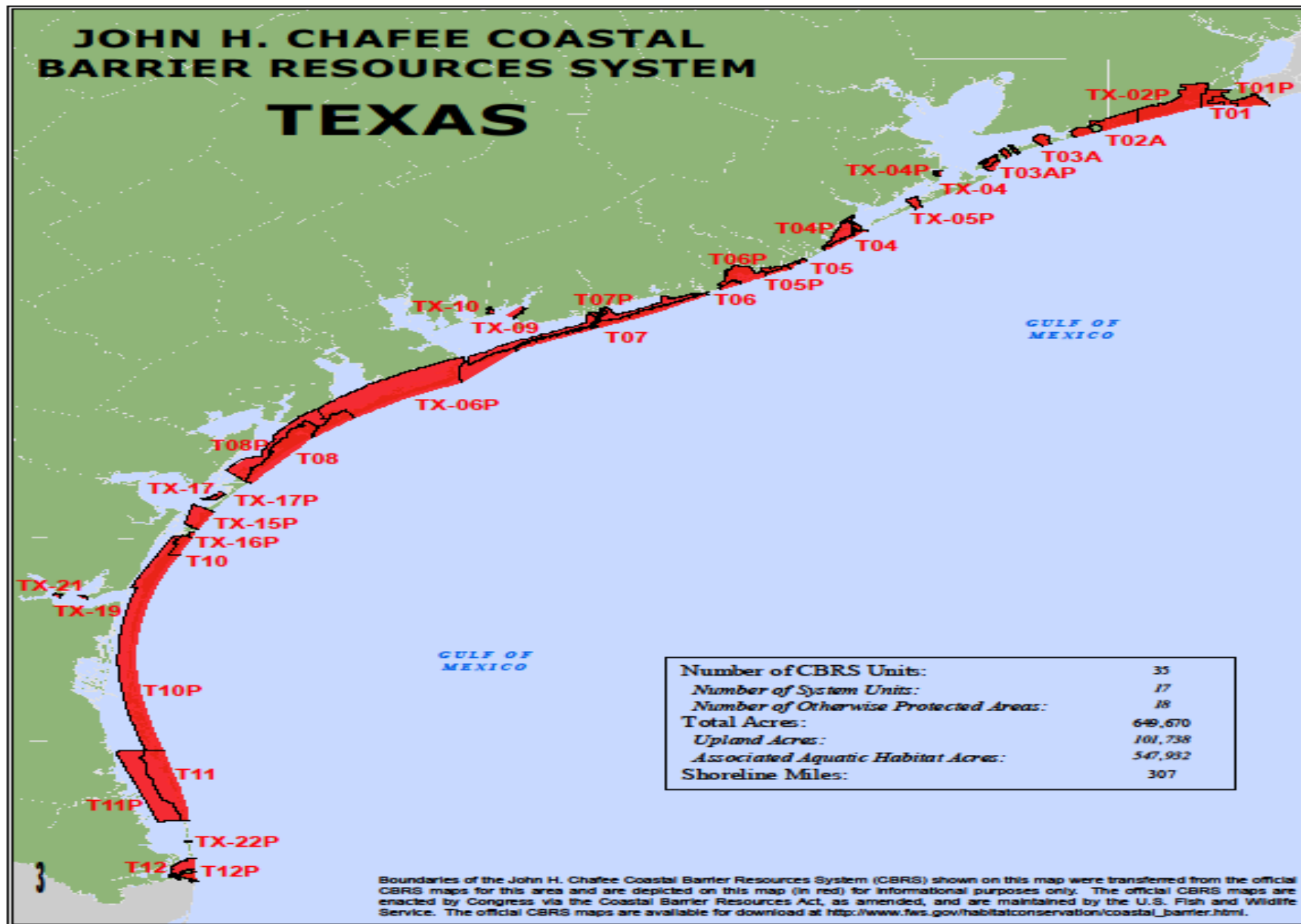
# LOCATION OF CBRS UNITS

ALABAMA	NEW JERSEY
CONNECTICUT	NEW YORK
DELAWARE	NORTH CAROLINA
FLORIDA	OHIO
GEORGIA	PUERTO RICO
LOUISIANA	RHODE ISLAND
MAINE	SOUTH CAROLINA
MARYLAND	TEXAS
MASSACHUSETTS	U.S. VIRGIN ISLANDS
MICHIGAN	VIRGINIA
MISSISSIPPI	WISCONSIN
MINNESOTA	

# **24 CFR 58.6 (c) Coastal Barrier Resource System Requirements**

- HUD assistance may not be used for most activities proposed in the Coastal Barrier Resource System
- Applies to:
  - New construction
  - Conversion of land uses
  - Rehabilitation
  - Acquisition
- 58.6 Checklist must be completed for all HUD assisted projects





<http://www.fws.gov/CBRA/Maps/index.html>

CBRS Units are  
Labeled and Bordered  
by a Heavy Line



This map has been produced by the U.S. Fish and Wildlife Service from a set of maps adopted by Congress pursuant to the Coastal Barrier Improvement Act P.L. 99-564 and supersedes all previous maps produced by the Service concerning undeveloped coastal barriers. The boundary delineation of this map is identical to that adopted by Congress.

#### COASTAL BARRIER RESOURCES SYSTEM

#### BOLIVAR PENINSULA UNIT T03A



Gold lines depict units in the CBRS.

Dotted lines depict "otherwise protected areas" not within the CBRS. These areas are shown with the letter "P" following the unit number.

October 24, 1990

# Resources for Determining if Your Project is in a CBRS Unit

- Check Coastal Barrier Resources System Maps Available Online at:  
<http://www.fws.gov/CBRA/Maps/index.html>
- Coastal Barrier Resources Act Website:  
<http://www.fws.gov/CBRA>
- If your project is bordering a CBRA, contact the US Fish and Wildlife Ecological Field Services Office in your area to obtain a determination

# U.S. Fish and Wildlife Services Contacts?

Jurisdiction	Office Address	Phone
<b>Louisiana</b>	Lafayette Ecological Services Field Office 646 Cajundome Boulevard Suite 400 Lafayette, LA 70506	337-291-3100
<b>North Texas Coast:</b> Jefferson, Galveston, Brazoria, Matagorda, and Chambers Counties	Clear Lake Ecological Services Field Office 17629 El Camino Real Suite 211 Houston, Texas 77058	281-286-8282
<b>South Texas Coast:</b> Calhoun, Aransas, Nueces, Kleberg, Willacy, Cameron, and Kenedy Counties	Corpus Christi Ecological Services Field Office c/o TAMU-CC 6300 Ocean Drive Unit 5837 Corpus Christi, TX 78412	361-994-9005
<b>Washington Office Headquarters</b>	4401 N. Fairfax Drive Suite 840 Arlington, VA 22203	703-358-2161

# Documentation for the ERR

- 58.6 Compliance Checklist
  - Region VI Compliance Guidebook  
<http://portal.hud.gov/hudportal/documents/huddoc?id=complianceguidebk.pdf>
- Coastal Barrier Map (project site should be identified on the map)
  - Coastal Barrier Resource System  
<http://www.fws.gov/CBRA/Maps/index.html>

# Example Checklist

- ✓ Appropriate boxes are checked.
- ✓ Distance provided.
- ✓ Sources documented.

## 2. §58.6(c) Coastal Barrier Improvement Act, as amended by the Coastal Barriers Improvement Act of 1990 (16 U.S.C. 3501)

- a. Does the project involve new construction, conversion of land uses, major rehabilitation of existing structure, or acquisition of undeveloped land?

☐ Yes ☒ No

If No, compliance with this section is complete.

If Yes, continue below.

- b. Is the project located in a coastal barrier resource area?

☐ Yes ☒ No

If No, compliance with this section is complete.

If Yes, Federal assistance may not be used in such an area.

Cite and attach source documentation: (Documentation should include map (e.g. Google Earth) noting project distance from Coastal Barrier Resources.)

For more information see:

CBRS maps on US FWS and FEMA websites: <http://www.FWS.gov/CBRA/>  
<http://www.FWS.gov/CBRA/Maps/index.html>

The project is located outside the Coastal Management Zone according to the Texas GLO (<http://www.glo.texas.gov/what-we-do/caring-for-the-coast/documents/landing-page-folder/CoastalBoundaryMap.pdf>) and outside the Coastal Barrier Resource Area according to the USFWS (<http://www.fws.gov/CBRA/Maps/index.html>). The City [REDACTED] is approximately 8 miles from the Texas GLO Coastal Zone Boundary. The City [REDACTED] is approximately 21 miles from the nearest Coastal Barrier Resource. See Attachment B, Figure B-3 and B-4.





**58.6 (D) BUYER NOTIFICATION  
REQUIREMENTS FOR RUNWAY  
CLEAR ZONES AND CLEAR ZONES OF  
24 CFR PART 51.303(A)(3)**

## **58.6 (d) Runway Clear Zone and Clear Zone Buyer Notification Requirements**

- Applies to all HUD Projects
- Requirements apply to HUD assistance, subsidy or sale of an existing property located:
  - Civilian Runway Clear Zone: 2,500 feet of the end of a runway
  - Military Clear Zone: 2,500 feet of the end of an airfield runway
- RE must advise buyers:
  - When property is in these types of zones
  - What the implications are
  - That the property may be acquired by the airport operator at a later date
- Buyers must sign a statement acknowledging receipt of this information



## NOTICE TO PROSPECTIVE BUYERS OF PROPERTIES LOCATED IN RUNWAY CLEAR ZONES AND CLEAR ZONES

In accordance with [24 CFR 51.303\(a\)\(3\)](#), this Notice must be given to anyone interested in using HUD assistance, subsidy or insurance to buy an existing property which is located in either a runway Clear Zone<sup>1</sup> at a civil airport or a Clear Zone at a military installation. The original signed copy of the Notice to Prospective Buyers must be maintained as part of the project file on this action. [Instruction: fill out the area shown in parentheses below.]

The property that you are interested in purchasing at (Insert: street address, city, state, zip code) is located in the Runway Clear Zone/Clear Zone for (Insert: the name of the airport/airfield, city, state).

Studies have shown that if an aircraft accident were to occur, it is more likely to occur within the Runway Clear Zone/Clear Zone than in other areas around the airport /airfield. Please note that we are not discussing the chances that an accident will occur, only where one is most likely to occur.

You should also be aware that the airport/airfield operator may wish to purchase the property at some point in the future as part of a clear zone acquisition program. Such programs have been underway for many years at airports and airfield across the country. We cannot predict if or when this might happen since it is a function of many factors, particularly the availability of funds but it is a possibility.

We want to bring this information to your attention. Your signature on the space below indicates that you are now aware that the property you are interested in purchasing is located in a Runway Clear Zone/Clear Zone.

\_\_\_\_\_  
Signature of prospective buyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or printed name of prospective buyer

<sup>1</sup> Also referred to as runway protection zone.

# Sample Buyer Notification



# Documentation for the ERR

- ✓ Map with project location showing proximity to civilian airport runway and military airfield runway
- ✓ If project is located within RCZ/RC, buyer notification must be included in ERR

# Example Checklist

- ✓ Appropriate boxes checked.
- ✓ Sources cited.
- ✓ Summary of nearby airports.

## §58.6(d) Runway Clear Zones and Clear Zones [24 CFR §51.303(a) (3)]

- a. Does the project involve the sale or purchase of existing property?  
Yes ☐ No ☒  
If No, compliance with this section is complete.  
If yes, continue below.
- b. Is the project located within 2,500 feet of the end of a civil airport runway (Civil Airport's Runway Clear Zone) or within 15,000 feet of the end of a military runway (Military Airfield's Clear Zone)?  
Yes ☐ No ☒  
If No, compliance with this section is complete.  
If Yes, Notice must be provided to buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging

receipt of this information, and a copy of the signed notice must be maintained in this ERR.

Cite and attach source document (Map indicating project site in proximity to end of runway):

For more information see:

Airport Information: <http://www.airnav.com/airports/>

HUD Airport Hazards Q&A:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/environment/review/ga/airport](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/ga/airport)

There are five airports listed in the FAA database within [REDACTED]; however, all of the airports/runways are located well over 2,500 feet from the proposed project sites. The nearest military airfield is over 15,000 feet away. Please reference Attachment B, Figure B-11.

(Source: [http://www.faa.gov/airports/airport\\_safety/airportdata\\_5010/](http://www.faa.gov/airports/airport_safety/airportdata_5010/))

Thank You!